

BADIAK & WILL, LLP
Attorneys for Defendant
DEEP SEA CHARTERS, INC.
106 Third Street
Mineola, New York 11501-4404
(516) 877-2225
Our Ref.: 08-A-004-AW

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

PEDRO DIMAREN,

08 Civ. 4495 (DC)

Plaintiff,

**NOTICE OF FILING
OF NOTICE OF REMOVAL
BY DEFENDANT
DEEP SEA CHARTERS, INC.**

- against -

DEEP SEA CHARTERS, INC.,

Supreme County of Bronx
Index No.: 302065/08

Defendant.

-----X

PLEASE TAKE NOTICE, that a Notice of Removal, a true copy of which is annexed hereto, was filed with the clerk of the United States District Court for the Southern District of New York in the above-referenced action.

PLEASE TAKE FURTHER NOTICE, that a copy of said Notice was filed with the Clerk of the Supreme Court of the State of New York, County of Bronx.

DATED: Mineola, New York
May 14, 2008

BADIAK & WILL, LLP
Attorneys for Defendant
DEEP SEA CHARTERS, INC.
106 Third Street
Mineola, New York 11501-4404
(516) 877-2225
Our Ref.: 08-A-004-AW

By: _____

ALFRED J. WILL (AW-2485)

TO: CLERK OF THE SUPREME COURT
OF THE STATE OF NEW YORK
COUNTY OF BRONX
851 Grand Concourse
Bronx, New York 10451
Index No.: 302065/08

FRIEDMAN, JAMES & BUCHSBAUM, LLP
Attorneys for Plaintiff
132 Nassau Street, Suite 900
New York, New York 10038
(212) 233-9385

-and-

ARNOLD & ITKIN, LLP
Attorneys for Plaintiff
Jeff Seely, *Pro Hac Vice to be filed*
Cory D. Itkin, *Pro Hace Vice to be filed*
5 Houston Center
1401 McKinney Street, Suite 2550
Houston, Texas 77010
Tel: (713) 222-3800
Fax: (713) 222-3850

JUDGE CHIN

'08 CIV 4495

BADIAK & WILL, LLP
Attorneys for Defendant
DEEP SEA CHARTERS, INC.
106 Third Street
Mineola, New York 11501-4404
(516) 877-2225
Our Ref.: 08-A-004-AW

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

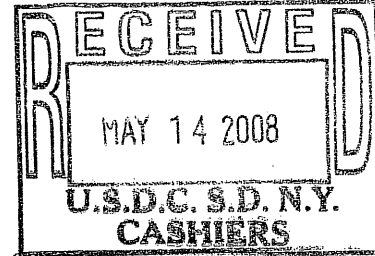
-----X
PEDRO DIMAREN,

Plaintiff,

- against -

DEEP SEA CHARTERS, INC.,

Defendant.
-----X



08 Civ. _____

NOTICE OF REMOVAL

Bronx County Clerk's
Index No.: 302065/08

PLEASE TAKE NOTICE, that defendant DEEP SEA CHARTERS, INC., by and through its attorneys BADIAK & WILL, LLP, removes this action from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York and signs this Notice of Removal pursuant to Rule 11 of the Federal Rules of Civil Procedure as follows:

1. On or about March 13, 2008, a civil action entitled Pedro Dimaren v. Deep Sea Charters, Inc., was commenced in the Supreme Court of the State of New York, County of Bronx by filing a civil Summons and Complaint, copies of which are annexed hereto as Exhibit 1.
2. This Notice of Removal is filed with this Court within thirty (30) days of defendant DEEP SEA CHARTERS, INC.,'s receipt of a copy of the plaintiff's initial pleading setting forth the claim for relief.

3. The Complaint alleges that plaintiff suffered personal injuries due to defendant's negligence. The Complaint also alleges that plaintiff is a resident of New York and, further that defendant is a Florida corporation. Upon information and belief, the amount in controversy exceeds \$75,000.00. Therefore, this Court has diversity jurisdiction over the subject matter of this civil action pursuant to 28 USC §1332, and defendant DEEP SEA CHARTERS, INC., may remove the same of this Court pursuant to title 28 U.S.C. §1441.

4. The Complaint alleges that plaintiff suffered personal injuries due to defendant's negligence while plaintiff was a seaman and an employee of defendant DEEP SEA CHARTERS, INC.. Therefore, this Court has original maritime and admiralty jurisdiction over the subject matter of this civil action pursuant to title 28 U.S.C. §1333 and Rule 9(h) of the Federal Rules of Civil Procedure, and defendant DEEP SEA CHARTERS, INC., may remove the same of this Court pursuant to title 28 U.S.C. §1441.

5. There have been no further proceedings in this action and the time for defendant DEEP SEA CHARTERS, INC., to appear, answer or otherwise move with respect to the Complaint has not expired.

6. Pursuant to the Judicial Improvements Act of 1998, P.L. 100-702, no removal bond is required.

7. No previous application for the relief requested herein has been made.

8. A copy of this Notice of Removal has been mailed to plaintiff's counsel and filed with the Clerk of the Supreme Court of the State of New York, County of Bronx, and said Court shall proceed no further herein unless and until the case is remanded.

9. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, petitioner DEEP SEA CHARTERS, INC., respectfully requests that the instant action now pending before the Supreme Court of the State of New York, County of Bronx, be removed to the United States District Court for the Southern District of New York.

DATED: Mineola, New York
May 12, 2008

BADIAK & WILL, LLP
Attorneys for Defendant
DEEP SEA CHARTERS, INC.
106 Third Street
Mineola, New York 11501-4404
(516) 877-2225
Our Ref.: 08-A-0047AW

By: _____

ALFRED J. WILL (AW-2485)

TO: CLERK OF THE SUPREME COURT
OF THE STATE OF NEW YORK
COUNTY OF BRONX
851 Grand Concourse
Bronx, New York 10451
Index No.: 302065/08

FRIEDMAN, JAMES & BUCHSBAUM, LLP
Attorneys for Plaintiff
132 Nassau Street, Suite 900
New York, New York 10038
(212) 233-9385

-and-

ARNOLD & ITKIN, LLP
Attorneys for Plaintiff
Jeff Seely, *Pro Hac Vice to be filed*
Cory D. Itkin, *Pro Hace Vice to be filed*
5 Houston Center
1401 McKinney Street, Suite 2550
Houston, Texas 77010
Tel: (713) 222-3800
Fax: (713) 222-3850

Exhibit 1

20498-2178

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

PEDRO DIMAREN,

Plaintiff

-against-

DEEP SEA CHARTERS, INC.

Defendant.

Index No:

Date Filed:

30205.08
3/13/08

Plaintiff resides at
BRONX County

and designates
BRONX County
as the place of
trial

SUMMONS

Venue is based on
plaintiff's residence

8PM

4/20/08 M
70

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to appear and/or answer the Complaint

In this action and to serve a copy of your answer, or if the Complaint is not served
with this Summons, to serve a Notice of Appearance on the plaintiff's attorneys within
twenty (20) days after the service of this Summons, exclusive of the day of service;

and in case of your failure to appear and/or answer, judgment will be taken against
you by default for the relief demanded in the Complaint.

Dated: New York, New York
March 12, 2008

FRIEDMAN, JAMES & BUCHSBAUM LLP
Attorneys for Plaintiff

By:

Andrew V. Buchsbaum
132 Nassau Street, Suite 900
New York, New York 10038
(212) 233-9385

-AND-

RECEIVED

08 MAR 13 AM 10:37
COUNTY CLERK
BRONX COUNTY

ARNOLD & ITKIN LLP
5 Houston Center
1401 McKinney Street, Suite 2550
Houston, TX 77010
Telephone: (713) 222-3800
Facsimile: (713) 222-3850

ATTORNEYS FOR PLAINTIFF

TO: DEEP SEA CHARTERS, INC.
c/o Kathleen A. Windridge
2 Isla Bahia Terrace
Fort Lauderdale, FL 33316

David Williams
954 728 9779

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

PEDRO DIMAREN,

Plaintiff,

-against-

DEEP SEA CHARTERS, INC.

Defendant.

Index No: 302065/08

[date purchased: 3/13/08]

COMPLAINT

Plaintiff, PEDRO DIMAREN, by his attorneys, FRIEDMAN, JAMES & BUCHSBAUM LLP and ARNOLD & ITKIN LLP, complaining of defendant, respectfully alleges upon information and belief as follows:

1. This action is brought pursuant to the Jones Act, 46 U.S.C. § 688, and the general maritime law of the United States, as authorized by the saving to suitors clause of The Judiciary Act of 1789, as amended, codified at 28 U.S.C. § 1331(1).

2. Plaintiff PEDRO DIMAREN is a resident of the State of New York, County of Bronx.

3. At all relevant times, defendant DEEP SEA CHARTERS, INC. was and still is a corporation organized and existing pursuant to the laws of the State of Florida authorized to transact business and doing business in the State of New York and may be served with process through its registered agent, Kathleen A. Windridge, 2 Isla Bahia Terrace, Fort Lauderdale, Florida 33316.

RECEIVED
08 MAR 13 4:44 PM '08
COUNTY CLERK
BRONX COUNTY

FIRST CAUSE OF ACTION

4. At all times and dates hereinafter mentioned, defendant DEEP SEA CHARTERS, INC. owned, operated, managed and/or controlled the vessel m/v "Lady Windridge" its equipment and appurtenances.

5. At all times and dates hereinafter mentioned, the plaintiff was a seaman and member of the crew of the vessel m/v "Lady Windridge" and an employee of defendant and as such, entitled to the benefits under the laws of the United States of America, including but not limited to those known as the Jones Act, 46 U.S.C. § 688 and/or The General Maritime Law of the United States.

6. That in or about September, 2006, without any fault on the part of the plaintiff, and wholly and solely by reason of the negligence, recklessness and carelessness of defendant, and its agents, servants and/or employees, and by reason of the unseaworthiness of the vessel m/v "Lady Windridge," and its equipment and/or appurtenances, the plaintiff was caused to sustain injuries.

7. As a result of the foregoing, the plaintiff was rendered sick, sore, lame and disabled and sustained severe and permanent personal injuries, was and is internally and externally disabled causing him to suffer pain, and for a time he was prevented from attending to his daily labors, thereby losing sums of money which he otherwise would have earned as wages, and has endeavored to be cured of his injuries, and has expended sums of money to maintain himself, and will continue to endure pain and suffering, all to his damage.

8. That one or more of the exceptions of Section 1602 of the New York Civil Practice Law and Rules applies to the within action.

SECOND CAUSE OF ACTION

9. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 8 of this Complaint as if set forth at length herein.

10. Plaintiff is entitled to maintenance, cure, and medical expenses for the period that he was disabled and unable to work as a result of the incident alleged in the First Cause of Action of this Complaint.

WHEREFORE, plaintiff demands judgment in an amount to be determined at trial but which amount exceeds the jurisdictional limits of all lower courts which would otherwise have jurisdiction; together with interest and the costs and disbursements of this action.

Dated: March 12, 2008

Yours, etc.,

FRIEDMAN, JAMES & BUCHSBAUM LLP

By 

Andrew V. Buchsbaum
132 Nassau Street, Suite 900
New York, NY 10038
(212) 233-9385

-and-

ARNOLD & ITKIN LLP
Jeff Seely, *Pro Hac Vice to be filed*
Cory D. Itkin, *Pro Hac Vice to be filed*
5 Houston Center
1401 McKinney Street, Suite 2550
Houston, Texas 77010
Telephone: (713) 222-3800
Facsimile: (713) 222-3850

ATTORNEYS FOR PLAINTIFF

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

Index No.: 302065/08

PEDRO DIMAREN,

Plaintiff,

-against-

DEEP SEA CHARTERS, INC.

Defendant.

COMPLAINT

FRIEDMAN, JAMES & BUCHSBAUM LLP
Attorneys for Plaintiff
132 Nassau Street, Suite 900
New York, NY 10038
(212) 233-9385

Index No.: 08 Civ.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
)SS.:
COUNTY OF NASSAU)

I, **Luz M. Webb**, being duly sworn, deposes and says:

I am not a party to the within action, am over 18 years of age and reside c/o Badiak & Will, LLP, 106 3rd Street, Mineola, New York 11501-4404. On May 13, 2008 I served the within NOTICE OF REMOVAL on:

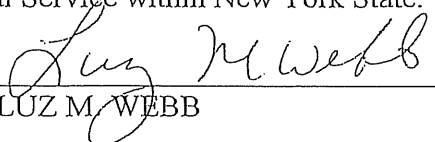
CLERK OF THE SUPREME COURT
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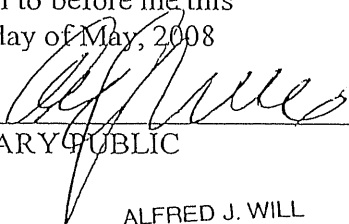
-and-

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Tel: (713) 222-3800
Fax: (713) 222-3850

by depositing a true copy thereof enclosed in a post-paid wrapper in an official depository under the exclusive care and custody of the United States Postal Service within New York State.


LUZ M. WEBB

Sworn to before me this
13th day of May, 2008


NOTARY PUBLIC

ALFRED J. WILL
Notary Public, State of New York
No. 02WI4630384
Qualified in Nassau County
Commission Expires 02/28/2011

Index No.: 08 Civ. 4495 (DC)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
)SS.:
COUNTY OF NASSAU)

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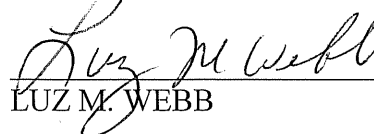
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OF THE STATE OF NEW YORK
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LUZ M. WEBB

Sworn to before me this
14TH day of May, 2008



NOTARY PUBLIC
ALFRED J. WILL
Notary Public, State of New York
No. 02WI4630384
Qualified in Nassau County
Commission Expires 02/28/20